

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:24-cv-00151-MR-WCM**

JACK SMITH and KERSTIN A.)
LANIER,)
Plaintiffs,)
vs.) **O R D E R**
JOHN LEITE & LISA CLARK TRUST,)
Defendant.)

)

THIS MATTER is before the Court on the Defendant's Motion to Dismiss [Doc. 11], and the Magistrate Judge's Memorandum and Recommendation [Doc. 22] regarding the disposition of the Defendant's Motion to Dismiss.

Pursuant to 28 U.S.C. § 636(b) and a specific Order of referral of the District Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the pending motion in the above-captioned action and to submit to this Court a recommendation for the disposition of the Defendant's motion.

On April 29, 2025, the Magistrate Judge filed a Memorandum and Recommendation [Doc. 22] in this case containing proposed findings of fact

and conclusions of law in support of a recommendation regarding the disposition of this matter. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Memorandum and Recommendation [Doc. 22], the Court finds that the proposed findings of fact are correct and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's recommendation that the Defendant's Motion to Dismiss be granted and that this case be dismissed for lack of subject matter jurisdiction.

ORDER

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation of the Magistrate Judge [Doc. 22] is **ACCEPTED**.

IT IS FURTHER ORDERED that the Defendant's Motion to Dismiss [Doc. 11] is **GRANTED**, and the Plaintiff's Complaint [Doc. 1] is **DISMISSED WITHOUT PREJUDICE** for lack of subject matter jurisdiction.

The Clerk of Court is respectfully instructed to close this civil case.

IT IS SO ORDERED.

Signed: May 23, 2025



Martin Reidinger
Chief United States District Judge

